

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>February 29, 2012</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2011-329-C</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2012-175</u>

**THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**

**SUBJECT:**

DOCKET NO. 2011-329-C - Information from Telephone Utilities Regarding Compliance with 26 S.C. Code Ann. Reg. 103-607 – Discuss with the Commission Various Requests in the Docket for Waiver of the Amount of the Bond Requirement.

**COMMISSION ACTION:**

We have before us today a number of requests from competitive local exchange carriers (CLECs) to either partially or fully waive the bonding requirements of Regulation 103-607. Most of the applicants cite the expense to obtain at least a \$100,000 performance bond or irrevocable letter of credit or a \$50,000 certificate of deposit, due to the limited amount of revenues earned in South Carolina. The regulation states that the Commission shall determine the type and the amount of bond or other security mechanism to be filed by the carrier with the Commission and the Office of Regulatory Staff (ORS), and that any commercially reasonable, acceptable method may be used in determining the amount of the bond. ORS has proposed a method of determining an alternative bond amount for these companies based on a formula, which consists of the average monthly charge per customer for a company, multiplied by the number of customers that the Company has in South Carolina, multiplied by two months. The formula is based on factors stated in the regulation. A number of companies have expressed a favorable reaction to this proposal. Regulation 103-601(3) allows us to partially waive or waive a regulation where circumstances indicate that such a waiver is appropriate and the waiver would not be contrary to the public interest. In the present instance, we believe a waiver is appropriate under the circumstances, and is certainly not contrary to the public interest.

Accordingly, for those companies who sought waiver only of the \$50,000 and \$100,000 amounts appearing in the regulation, I move that we waive these minimums stated in the regulation, and that the ORS formula be applied as stated above to determine the proper amount of the bond. The bond should still be in the form of a performance bond, irrevocable letter of credit, or certificate of deposit for the calculated amount of the bond. ORS and each company should determine how much the bond should be in any given instance. If the two parties cannot agree on the application of the formula, they may submit the question to this Commission for resolution.

With regard to those companies who presently seek complete waiver of the CLEC bonding requirement, we deny such a waiver. We do believe that the public is better protected by a bond of some amount, unless the Company (and any affiliates) have invested five million dollars in telecommunications facilities in South Carolina as stated by the regulation, or the company has a previous ruling by this Commission that no bond is required. In fact, Mr. Chairman, I move that the \$50,000 and \$100,000 figures be waived for those companies who had sought complete waiver of the bonding statute and that they have bonds set by the ORS formula method as described above. Again if ORS and the Company cannot agree on the amount, the matter can be submitted to this Commission for resolution. The bonds must still be in the form of a performance bond, an irrevocable letter of credit, or a certificate of deposit. Finally, I move that the portions of Regulation 103-607 that we have not waived in this motion remain in full force and effect.

	MOTION	YES	NO	OTHER
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

(SEAL)



RECORDED BY: J. Schmieding